

PLANNING & DEVELOPMENT COMMITTEE

20 OCTOBER 2022

REPORT OF: DIRECTOR PROSPERITY AND DEVELOPMENT

PURPOSE OF THE REPORT

Members are asked to determine the planning application outlined below:

APPLICATION NO: 22/0991/15 (GH)
APPLICANT: Rhondda Cynon Taf CBC
DEVELOPMENT: Variation of condition 2 of planning consent 21/0005/08, to provide a separate Early Years pedestrian access from existing gate on Bethania Hill, with associated highway improvements
LOCATION: CWM LAI PRIMARY SCHOOL, PENYGARREG ROAD, TONYREFAIL, PORTH, CF39 8AS
DATE REGISTERED: 17/08/2022
ELECTORAL DIVISION: Tonyrefail East

RECOMMENDATION: GRANT SUBJECT TO THE CONDITIONS BELOW:

REASONS:

The proposed new pedestrian access would create a convenient and safe route to the on-site Early Years provision at Cwmlai School, together with improvements to the adjoining highway. The works would have minimal visual impact and would not be considered to affect the amenity of the closest neighbouring residents to an unacceptable degree.

REASON APPLICATION REPORTED TO COMMITTEE

The application has been submitted by the Council, on land within its ownership, and where the Council's interest is of more than a minor nature.

APPLICATION DETAILS

Cwmlai Primary School benefits from an extant planning permission for a three classroom extension with additional toilet facilities, associated storage areas, cleaner's cupboards and circulation space. The application for this development, ref: 21/0005/08, was approved by the Council's Planning Committee on 25th February 2021.

The development, which has since been constructed, includes external playground areas with separate access for childcare providers and the school. The scale, style and form of the development replicates that part of the school from which it extends.

However, the Applicant now seeks to make relatively minor alterations to the approved scheme, the process for which is to submit an application under Section 73 of the Town and Country Planning Act 1990 for a variation of condition. In this case condition 2 of planning consent 21/0005/08, which lists the approved plans, is the one to be varied.

The variation relates to the provision of a separate alternative access for the parents with children using the Early Years Group and After School Club. It relates solely to a new 2m wide footway to be installed along Bethania Hill, at the point of an existing grounds maintenance access, to allow a safe pedestrian route to the newly built Early Learning Years teaching facility, together with an upgraded turning head and highway.

The proposed revised condition, with changes in italics, is as follows:

Condition 2

The development hereby approved shall be completed in accordance with the approved drawings and documents:

- 5156-3594-B11
- 5159-3336-B12
- 5156-3594-B16
- 5156-3594-B21A
- 5156-3594-B40
- (60)001
- (60)002 P02
- (60)003 P03
- *Meithryn Footway Link Drawing number 6695-BHP-VE-XX-DR-C—(60)005 Rev P01*
- *Early Years Access Footway Plan Drawing number 6746-BHP-VE-XX-DR-C-(60)002 Rev P02*
- *Planning for Comparison Plan Drawing Number 6746-BHP-VE-XX-DR-C-(60)001 Rev P01*

and details and documents received on 4th January 2021 and 15th August 2022.

Reason: To ensure compliance with the approved plans and documents and to clearly define the scope of the permission.

During the case officer's site visit it was noted that the line of the path from the boundary gate to the School entrance had already been laid out.

SITE APPRAISAL

The application property, Cwmlai Primary School, is located to the south of Tonyrefail between the areas known as Coedely and Thomastown.

The School occupies a wedge-shaped site and is bounded by Penygarreg Road to the north and Francis Street to the south. A further lane, Bethania Hill, forms the western boundary to the site. Most of the existing development surrounding the site is residential in nature.

The school consists of two buildings linked via a large circulation space with external access. The original two-storey Victorian part of the School was constructed in 1911 whilst the more recent single-storey extension was provided in 2006. The newer part has a low pitched roof above elevations of face brickwork and render.

The main vehicular and pedestrian entrance is on the southern side, and access is also provided to the School's car park, although there is a pedestrian gate within the northern boundary wall. The School benefits from hard-surfaced play areas with a larger grassed playing field to the west.

PLANNING HISTORY

The most recent or relevant applications on record associated with this site are:

- 21/0005/08:** Construction of traditional single storey three classroom extension, including toilet areas, plant room, storage areas, circulation and associated external works including new MUGA and four additional parking spaces onto existing school building. Decision: 25/02/2021, Grant
- 05/1504/10:** Single storey pitched roof classroom block extension & new car park with external play area. Decision: 27/09/2005, Grant
- 05/0191/08:** Erection of Demountable Classroom Units (Double Unit). Decision: 11/05/2005, Grant

PUBLICITY

The application has been advertised by direct notification to forty-one neighbouring properties and notices were erected on site.

No letters of objection or representation have been received.

CONSULTATION

Highways and Transportation

No objection, subject to conditions in respect of traffic management and engineering design and details.

Public Health and Protection

Conditions are recommended in respect of demolition, hours of operation, noise dust and waste. However, since these matters are controlled by existing environmental health legislation, it is considered that an informative note would be appropriate in this regard.

Western Power Distribution

Any new connection of service diversion will require consent from WPD.

Countryside, Landscape and Ecology – Ecologist

For the 21/0005 application there was quite a lot of ecological mitigation needed. However, the path is already laid but doesn't look like it went anywhere eco-sensitive, so there are no specific ecology comments or requirements for this part of the development.

Natural Resources Wales

NRW has reviewed the planning application and from the information provided does not consider that the proposed development affects a matter listed on their list of consultation topics.

Dwr Cymru Welsh Water

DCWW has no objection to the variation of condition and asks that any drainage related conditions on the original consent are brought forward to a new consent.

Flood Risk Management

From a flood risk perspective, FRM has no comment with regard the variation of condition 2.

No other consultation responses have been received within the statutory period.

POLICY CONTEXT

Rhondda Cynon Taf Local Development Plan

The current LDP's lifespan was 2011 to 2021. It has been reviewed and is in the process of being replaced. The Planning (Wales) Act 2015 introduced provisions

specifying the period to which a plan has effect and providing that it shall cease to be the LDP at the end of the specified period. These provisions were commenced on 04 January 2016 but do not have retrospective effect. Therefore, the provisions do not apply to LDPs adopted prior to this date and plans adopted before 04 January 2016 will remain the LDP for determining planning applications until replaced by a further LDP. This was clarified in guidance published by the Minister on 24 September 2020. Subsequently, the existing Plan remains the development plan for consideration when determining this planning application.

The application site lies within the settlement boundary for Tonyrefail

Policy AW5 - sets out criteria for new development in relation to amenity and accessibility.

Policy AW6 - requires development to involve a high quality design and to make a positive contribution to placemaking, including landscaping.

Policy AW8 - seeks to protect and enhance the natural environment from inappropriate development.

Policy AW10 - supports development proposals which are not detrimental to public health or the environment

Supplementary Planning Guidance

- Design and Placemaking
- Access, Circulation and Parking Requirements

National Guidance

In the determination of planning applications regard should also be given to the requirements of national planning policy which are not duplicated in the Local Development Plan, particularly where national planning policy provides a more up to date and comprehensive policy on certain topics.

Planning Policy Wales Edition 11 (PPW) was issued on 24 February 2021 in conjunction with Future Wales: The National Plan 2040 (FW2040). PPW incorporates the objectives of the Well-being of Future Generations (Wales) Act into town and country planning and sets out Welsh Government's (WG) policy on planning issues relevant to the determination of all planning applications. FW2040 sets out the National Development Framework for Wales (NDF), WGs current position on planning policy at regional and national level.

It is considered that the proposed development is consistent with the key principles and requirements for placemaking set out in PPW; and is also consistent with the Well-being of Future Generations (Wales) Act's sustainable development principles through its contribution towards the Welsh Ministers' well-being objectives of driving sustainable development and building healthier communities and better environments.

Given the scale of the proposed development and its relationship with only the immediate surrounding area, there are limitations to the extent such a scheme can have in promoting planning objectives at a national scale. As such, whilst the scheme aligns with the overarching sustainable development aims of FW2040, it is not considered the policies set out in the document are specifically relevant to this application.

Other relevant national policy guidance consulted:

PPW Technical Advice Note 12 - Design

REASONS FOR REACHING THE RECOMMENDATION

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that, if regard is to be had to the development plan for the purposes of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.

Furthermore, applications that are not in accordance with relevant policies in the plan should not be allowed, unless material considerations justify the grant of planning permission.

Main Issues:

Principle of the proposed development

Cwmlai School lies within settlement limits and the proposed development lies within and adjacent to the curtilage of the school site, where the established land use includes primary and nursery education provision. Consequently, it is considered that in principle the proposal is acceptable, subject to consideration of the material matters below.

Impact on the character and appearance of the area

The construction of the path between the School boundary and entrance, as demonstrated by the photographs within the Committee presentation, has not resulted in the construction of any above-ground structures and has little impact on the character of the site and no impact on the surrounding area.

With regard to the highway works, it is considered that the provision of a footway, crossing points and turning head will benefit both pupils and residents, and will improve the appearance of the street scene at Bethania Hill. Therefore, the development would be acceptable in this regard.

Impact on neighbouring occupiers

Members will have recognised that the application before them seeks approval for minor matters, compared with the scope of the extant and implemented planning permission 21/0005/08, and that normally such matters might be addressed by the submission of a Non-Material Amendment (NMA) application.

However, advice to the Applicant prior to submission noted that if there weren't any residential properties on the other side of Bethania Hill or around the junction with Penygarreg Road to the north-west, then an NMA would probably have been sufficient.

Nevertheless, since it is certain that the new entrance would result in vehicle movements on Bethania Hill at the start and end of the School day, particularly the latter when parents or others often turn up early and wait, it was considered that this would represent a material change to the extant planning permission.

Therefore, it was suggested to the Applicant that would be prudent to submit a Section 73 application to vary condition 2 of planning permission 21/0005/08, which would enable a formal consultation.

In addition, the extant permission was subject to consultation with all neighbouring residents around the site, including Penygarreg Road and Bethania Hill, and although many residents may not have viewed the plans for the School extension, those that did would have seen that the extension was proposed to be served from existing pedestrian entrances and the vehicular access from Francis Street to the south.

Notwithstanding those concerns, this application was advertised directly to forty-one dwellings and site notices, and no representations of any kind have been received. Therefore, whilst the use of the new access will result in a transfer of vehicle and pedestrian movements from other parts of the School site, it is considered that the amenity of residents would not be affected to an unacceptable degree.

Highways and accessibility

Access

The proposal provides for a new 2m wide footway on the development side of the school to be accommodated within the highway verge and a larger compliant turning facility provided on Bethania Hill, for use of all including residents and service delivery vehicles to the existing street.

The footway provision will give pupils walking from the west the opportunity to access the school grounds via a safe segregated footway facility.

There is concern that by providing the safe segregated footway facility and access to the early learning facility that parents dropping off their children will now do so using Bethania Hill. However, taking into account the existing road width of 6m is acceptable for safe two-way traffic, the double yellow lines at the junction protect access and

sight lines, the enhanced turning facilities to be provided and the limited on-street car parking that currently takes place, the development is, on balance, considered acceptable.

Construction Details / Drainage Details

It is noted that the proposed drainage details indicate surface water drainage via a filter drain and then connecting to a Welsh Water combined surface water drain. No confirmation of the connection having been approved has been provided, which if not approved would result in a full re-design of the proposal. Therefore, conditions have been suggested for the submission of full engineering design and details of the proposed footway and drainage to be submitted.

Ecology

In respect of the path and highway works, the consultation response from the Council's Ecologist highlights that there would be no ecological concerns and therefore no requirement to provide mitigation and enhancement measures.

However, although this application seeks approval for a variation of condition, ostensibly for the new access, should Members decide to approve the application it will result in a new planning permission for the whole of the previous development for the early years extension and associated works.

The previous Committee report for application 21/0005/08, determined by Members on 25th February 2021, included the following paragraphs:

In terms of bats, the Bat Activity Survey Report identified a bat roost of common pipistrelles in Building 2, but no bat roost in Building 1. The report concludes that providing bat mitigation and enhancement measures as set out in Section 5 of the Report are enacted, the bat impact will be negligible.

With regard to other ecology issues the Preliminary Ecological Appraisal identifies a number of ecological features within the wider school grounds, and its recommendations also led specifically to a standalone Reptile, Amphibian and Hedgehog Method Statement, with a number of ecological mitigation and enhancement proposals.

The site has therefore had a detailed ecological assessment, the development is primarily affecting amenity grass of relatively low ecology value, although the Council's Ecologist notes that the wider school grounds/buildings and context do support a surprisingly rich species assemblage.

However, providing ecological mitigation and enhancement is delivered, the ecology assessment has shown that the development can be sufficiently mitigated and will therefore be acceptable and in accordance with Policy AW8.

Unfortunately, no application was received to discharge the subsequent ecology condition, or a condition requiring a Construction Method Statement. Whilst the latter is no longer relevant and a separate condition is recommended below for the approval of traffic management details relating to the highways works, the ecology mitigation and enhancement measures, required by the former to make the development acceptable in planning terms as per Policy AW8 and PPW11, is still valid.

Hence, the previous ecology condition has been carried forward as condition 5, albeit reworded to reflect that development has already taken place.

Community Infrastructure Levy (CIL) Liability

The Community Infrastructure Levy (CIL) was introduced in Rhondda Cynon Taf from 31 December 2014.

The application is for development of a kind that is not CIL liable under the CIL Regulations 2010 (as amended).

Conclusion

The proposed path and highway improvements would not be harmful to the character and appearance of the site, or cause detriment to the amenity of the closest neighbouring properties. The application is therefore considered to comply with Policies AW5, AW6 and AW10 of the Local Development Plan.

RECOMMENDATION: GRANT SUBJECT TO THE CONDITIONS BELOW:

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.

Reason: To comply with Sections 91 and 93 of the Town and Country Planning Act 1990.

2. The development hereby approved shall be completed in accordance with the approved drawings and documents:

- 5156-3594-B11
- 5159-3336-B12
- 5156-3594-B16
- 5156-3594-B21A
- 5156-3594-B40
- (60)001
- (60)002 P02
- (60)003 P03

- Meithryn Footway Link Drawing number 6695-BHP-VE-XX-DR-C—(60)005 Rev P01
- Early Years Access Footway Plan Drawing number 6746-BHP-VE-XX-DR-C-(60)002 Rev P02
- Planning for Comparison Plan Drawing number 6746-BHP-VE-XX-DR-C-(60)001 Rev P01
- Planning Comparison Plan number 6746-BHP-VE-XX-DR-C-(00)001 Rev P03

and details and documents received on 4th January 2021, 15th August 2022 and 30th August 2022.

Reason: To ensure compliance with the approved plans and documents and to clearly define the scope of the permission.

3. No development shall commence in the public highway until full engineering design and details of the proposed 2.0m footway, larger turning area, uncontrolled pedestrian crossing, including its tie in with Bethania Hill together with sections and surface-water drainage details, have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure the adequacy of the proposed development, in the interests of highway safety in accordance with Policy AW5 of the Rhondda Cynon Taf Local Development Plan.

4. No development shall commence in the public highway until details of traffic management and wheel washing facilities to be provided on site have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented and maintained throughout the construction period.

Reason: To ensure that mud and debris are not deposited from the construction site onto the public highway, in the interests of highway safety in accordance with Policy AW5 of the Rhondda Cynon Taf Local Development Plan.

5. Within three months of the date of this consent, details of ecological mitigation and enhancement measures, as set out in the following reports, shall be submitted to the Local Planning Authority for approval:
 - Section 7 of the Preliminary Ecological Impact Assessment Report (produced by TACP and dated June 2020)
 - Section 5 of the Bat Activity Survey Report (produced by TACP and dated August 2020)

- Section 5 of the Reptile, Amphibian and Hedgehog Method Statement (produced by TACP and dated June 2020)

The development shall be carried out in accordance with the approved details prior to beneficial use.

Reason: In the interests of nature and landscape conservation in accordance with Policy AW8 of the Rhondda Cynon Taf Local Development Plan.

6. Surface water run-off from the proposed development shall not discharge onto the public highway or connect to any highway drainage system unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of highway safety and to prevent overcapacity of the existing highway drainage system and potential flooding in accordance with Policies AW5 and AW10 of the Rhondda Cynon Taf Local Development Plan.